

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7000

BILL NUMBER: SB 221

NOTE PREPARED: Dec 27, 2006

BILL AMENDED:

SUBJECT: Rules for Birthing Centers and Abortion Clinics.

FIRST AUTHOR: Sen. Kruse

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill requires the State Department of Health to establish physical plant specifications for birthing centers and abortion clinics and requires the Department to notify the Administrative Rules Oversight Committee if the Department cannot establish the physical plant specifications for abortion clinics before April 1, 2008.

The bill also requires abortion clinics to meet the State Department of Health physical plant specifications before July 1, 2011.

Effective Date: Upon passage.

Explanation of State Expenditures: The bill requires the Department of Health (ISDH) to establish physical plant specifications for birthing centers and abortion clinics before April 1, 2008. This provision has no fiscal impact since the Department has already promulgated the final rules containing physical plant specifications for both entities. The rules specify that abortion clinics operating before July 1, 2006, and birthing centers operating before the effective date of the final rules are exempted from the physical plant requirements.

The bill also requires abortion clinics to meet the physical plant specifications required for licensure by July 1, 2011. Currently the rule specifies that abortion clinics in operation before the promulgation of the licensure rules are exempted from the physical plant specifications unless they renovate an existing facility or move to a new facility. This provision would require a revision of the existing licensure regulations prior to July 1, 2011, which should be accomplished within the existing level of resources available to the Department.

Those clinics which do not meet physical plant specifications by July 1, 2011, may require additional inspections by the Department to ascertain noncompliance prior to license revocation. Additionally, each party that has a license revoked due to noncompliance would be entitled to the due process procedure required by the Administrative Orders and Procedures Act. Each party is entitled to an administrative hearing and an appeal panel if the decision is appealed. A decision by the appeals panel may then be reviewed by the judicial system. The Department has estimated an additional expense of \$144,000 for the administrative due process associated with the licence revocation of the currently operating clinics. This estimate assumes that each of the 9 licensed abortion clinics would request an administrative hearing and subsequently appeal a decision. The Department's cost estimate is based on the necessity of hiring outside counsel to conduct up to 9 administrative hearings in a condensed period of time. Outside counsel cost is estimated at \$200 per hour with 80 hours required for each administrative hearing and appeal. The hourly cost of outside counsel is estimated at rates in effect in 2006; this cost may increase by 2011 when this process occurs.

Appropriation Background: The ISDH administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2006 and FY 2007. Revenues from fees and penalties collected by the Department are deposited in the state General Fund with augmentation allowed in amounts not to exceed the additional revenue from fees or penalties received after July 1, 2003. The funding source of the FY 2008 and FY 2009 ISDH administrative appropriations will be determined by the General Assembly.

Explanation of State Revenues: The bill may reduce the amount of fees collected after July 1, 2011, for abortion clinic licensure if any of the currently operating clinics cannot meet the physical plant requirements specified in the regulations. There are 9 licensed abortion clinics in Indiana.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Department of Health.

Local Agencies Affected:

Information Sources: Terry Whitson, Assistant Commissioner, Indiana State Department of Health.

Fiscal Analyst: Kathy Norris, 317-234-1360.